

## **Remarks**

### **Rejections Under 35 U.S.C. 112**

The Examiner has rejected claims 11, 22, and 39 because the claim limitation “late engineering design change” had improper antecedent basis.

Claims 11 and 39 have been amended with proper antecedent basis as the Examiner has requested. Claim 22 has been cancelled.

### **Rejections Under 35 U.S.C. 103(a)**

The Examiner has rejected claims 1-45 under 35 U.S.C. 103(a) as being unpatentable over “ROI Analysis” (Medicallogic.com) in view of DPL 4.0 (www.adainc.com).

Claims 14 through 30 have been canceled and are no longer pending in this action. The Applicant’s respectfully contend, however, that the cited references fail to teach or suggest each element of the invention recited in remaining claims 1-13 and 31-45. Accordingly, the Examiner has failed to establish a proper *prima facie* obviousness rejection under 35 U.S.C. 103. (MPEP 2143.)

First, neither reference teaches or suggests the interactive manner in which questions regarding the engineering change driver are presented to the user. In particular, the computer recited in independent claims 1 and 31 presents a set of questions to a user that are based on prior user selections made during the recited engineering change decision analysis. In particular, claim 1 recited displaying a set of questions soliciting **change-driver specific** information associated with the **selected** change driver. (Emphasis added.)

The ROI Analysis reference, however, only provides a single, static array of worksheet blanks for a user to fill in. Similarly, the DPL 4.0 reference does not teach or suggest questioning based on a user’s previously- selected change driver. Put another way, the prior art references are passive in their analysis technique - leaving it up to the user to define the structure of the decision analysis. The claimed invention, on the other hand, takes

more of an active approach: questions provided to the user are dictated based on previous user-selections in the decision making process. This aspect of the claimed invention fundamentally distinguishes the recited subject matter from what was known in the art.

Dependent claims 2 through 13 are patentable at least because they depend from proper independent claim 1. (MPEP 2143.03)

Claims 2 through 9 recite particular embodiments for computing the cost associated with the engineering design change as recited in claim 1. For claims 2, 3, 5, and 6, as the Examiner has indicated, the cited references fail to teach or suggest a warranty cost variance. MPEP 2143 requires, however, that the prior art teach or suggest all elements of the claimed invention. Without some objective motivation found in the prior art, modification of the art by one of ordinary skill to reach a claim limitation is improper. (MPEP 2143.)

Further, the ROI Analysis reference teaches away from such a modification because it requires the decision maker to consider the “cost” of certain system-related “risk” (e.g., “failure of product to deliver benefits promised by vendor,” p. 5). Given this “risk,” no warranty of any sort is contemplated by this reference, let alone a warranty cost variance. MPEP 2141.02 prohibits the combination or modification of references by one of ordinary skill in the art where those references teach away from the proposed combination of modification.

In addition to reciting the computation of a warranty variance (see argument above), claim 6 recites a cost variance estimate associated with the product manufactured without product verification testing. Because the ROI Analysis reference does not even contemplate product manufacturing, it does not teach or suggest receiving product warranty variance estimates associated with the product manufactured without product verification testing. Accordingly, the Applicants respectfully request that the rejections of claims 2, 3, 5, and 6 be withdrawn.

Claim 9 recites computing a cost variance for incremental piece costs. This claim was rejected based on page 5 of the ROI Analysis reference. However, the cited worksheet does not seek incremental piece costs associated with the implementation of EMR modules and interfaces – only the *overall* cost of the “EMR application and modules” and “required interfaces.” (Page 5.) No incremental cost for these modules or interfaces is sought. Accordingly, the Applicants respectfully request that the rejections of claim 9 be withdrawn.

Claim 10 recites particular items within the list of change drivers recited in claim 1. The rejection of this claim was based exclusively on the ROI Analysis reference. However, the cited provisions of that reference do not teach or suggest a management directed change driver, a feasibility change driver, or a missed objective change driver. Due to the interactive question-and-answer nature of the claimed invention (discussed above), the particular change drivers available for user-selection serve an important functional role in the operation of the claimed invention. In particular, they govern the change drive-specific questions that are subsequently presented to the user during the decision analysis. For these reasons, Applicants respectfully request that the rejection of claim 10 be withdrawn.

Claims 11 through 13 recite particular change driver-specific questions presented to the user in connection with the engineering change decision analysis recited in claim 1. Claim 11 recites a question concerning whether a required condition will be met by implementing a late engineering design change. The rejection is based on page 5 of the ROI Analysis reference which discloses costs assumptions for ongoing product upgrades and support. However, these questions seek cost/risk values associated with upgrades and support – not an indication of whether a required condition will be met by implementing a late engineering design change. Of course, a user of a purchased EMR system is not using the provided worksheet to evaluate late engineering design changes to the EMR system itself - the user has already purchased the system from the system vendor. Even if “product upgrades” were considered late engineering design changes, they are “engineered” by the software vendor – not the user of the software. The ROI Analysis worksheet is designed for the

software user, however, not the vendor, in determining whether to implement an EMR system in the first place. Further, as the Examiner has indicated, the ROI Analysis reference fails to teach questions concerning late engineering design changes. Instead, the Examiner relies on the level of skill in the art to reach this claim limitation. This is an unreasonable and interpretation/modification of the ROI Analysis reference as nothing in the prior art of record suggests such a modification. (MPEP 2143.) Accordingly, Applicants respectfully request withdrawal of these claim rejections.

Claim 12 recites questions regarding warranty variance estimates. For the reasons stated above with regard to claims 2, 3, and 5, this rejection is improper. The ROI Analysis reference teaches away from this modification.

In rejecting claim 13, the Examiner has indicated that the cited references fail to teach or suggest requesting a percentage of customers who purchase the product despite the lack of implementing the engineering design change, and relied exclusively on the level of ordinary skill in the art to reach this claim limitation. Because this claim limitation is not taught or suggested by the cited references, Applicants respectfully request that the rejection of claim 13 be withdrawn. (MPEP 2143.)

Claims 14 through 30 have been cancelled.

Claims 31, 33-41, and 43-45 have been rejected with the same or similar rationale as the rejections for claims 1, 5-13, and 2-4, respectively. Accordingly, the rationale behind Applicants' corresponding arguments above apply.

The Examiner has rejected claim 32 arguing that the ROI Analysis reference teaches an analysis logic program operating to vary the specific data as claim 32 recites. However, Applicants find no support for this argument in the ROI Analysis reference. Accordingly, the Applicants respectfully request that the rejection of claim 32 be withdrawn.

Any of dependent claims 32-45 are additionally patentable at least to the extent they depend upon proper independent claim 31. (MPEP 2143.03)

Summary

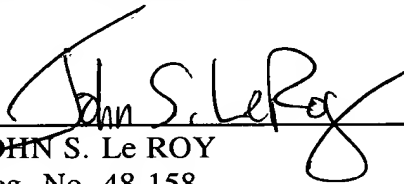
~~Please charge petition fee of \$110.00 and any additional fees as a result of the filing of this paper to Deposit Account 06-1510 (Ford Global Technologies, Inc.) as authorized by the original transmittal letter in this case.~~

The Examiner is requested to telephone the undersigned to discuss prompt resolution of any remaining issues necessary to place this case in condition for allowance.

Respectfully submitted,

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